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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/787,458	05/21/2001	Wilhelm Lohrey	SWR-0039	2525

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EXAMINER

WEINSTEIN, STEVEN L

ART UNIT	PAPER NUMBER
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1761

DATE MAILED: 03/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

AS-8

# Office Action Summary

Application No.

09/787458

Applicant(s)

LOHREY ETAL

Examiner

S. WEINSTEIN

Group Art Unit

1761

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- ☒ Responsive to communication(s) filed on 3/19/01
- ☐ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 12-21 is/are pending in the application.
- ☐ Of the above claim(s) is/are withdrawn from consideration.
- ☐ Claim(s) is/are allowed.
- ☒ Claim(s) 12-21 is/are rejected.
- ☐ Claim(s) is/are objected to.
- ☐ Claim(s) are subject to restriction or election requirement

## Application Papers

- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some\* ☐ None of the:
  - ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
  - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) 6
- ☐ Interview Summary, PTO-413
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other \_\_\_\_\_

Office Action Summary

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 12, 14-16, 18, 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Welin-Berger (G.B. 962038) in view of Bonne et al (4844914), Romagnoli (4828851) and Irmischer (3053665), further in view of Welin-Berger (3223229).

In regard to claim 1, Welin-Berger discloses an infusion bag for preparing tea, comprising a suspension unit (No. 2, see fig. 5) made of a sheet-like carrier material, said suspension unit having a grasping area, and two chambers (1a and 1b) formed of a filter material containing an amount of a substance wherein said chambers each have a top side and the chambers being connected to one another at the top sides to form a common edge and wherein the chambers are connected to <sup>the</sup>~~other~~ suspension unit at the common edge and wherein the chambers are capable of being turned away from the grasping area and the suspension unit is longer than the chambers (fig. 4). Claim 12 also recites that the chambers are produced and filled with the substance independently from each other. How the chambers are formed is not seen to be limiting on the final article in an article claim unless it can be shown that some structure is imparted with such language. In any case, Bonne et al, Romagnoli and Irmischer can all be relied on as evidence to show it was notoriously old to fill the chambers independently of each

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other and to modify Welin-Berger ('038), if necessary and employ this conventional means of filling would therefore have been obvious. Welin-Berger ('229) is relied on as further evidence of a two-chamber infusion bag/suspension unit arrangement. In regard to claims 14-16, Welin-Berger ('038) discloses tubular sheet formation, and heat sealing are, of course, conventional in the art. Bonne et al and the other art applied are further examples of the conventionality of these structural expedients. In regard to the method claims 20 and 21, these claims are rejected essentially for the reasons given above in regard to claim 12. Welin-Berger ('038) teaches connecting the chambers to the suspension unit and the art taken as a whole teaches it would have been obvious to modify Welin-Berger ('038) and employ the conventional step of filling the chambers independently of each other. Note that the art also teaches securing chambers to suspension units simultaneously and on two sides of the unit (e.g. Bonne et al – fig. 5 and fig. 18).

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 12 above, and further in view of Rambold (3,899,599).

Claim 13 recites that the suspension unit has punched holes to form a rectangular area and/or a T-shaped notch. As evidence by Rambold, it was well established in the fusion bag art to provide a suspension unit with such structure so that the bag could be attached to projections from receptacles such as, pots (fig. 6). This is an applicant's objective as well. ~~To~~ modify the combination and provide such structure for its art recognized and applicant's intended function would therefore have been obvious.

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Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 12 above, and further in view of Tremaine (G.B. 24,151 – 12/1904).

Claim 17 recites that the chambers are filled with different amounts of “the substance”. As evidenced by Tremaine, it is notoriously old to provide a multi-chambered infusion bag with different amounts of substance to vary the beverage. To modify the combination and vary the amount of substance for its art recognized reason would therefore have been obvious.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 12 above, and further in view of Barnett (2,791,505) and Graves (3,914,439) who teaches it is well established to provide aromatic substances (e.g. lemon). To modify the combination and provide an aromatic substance for its art recognized and applicants intended function, i.e. to enhance flavor of the beverage would therefore have been obvious.

The remainder of the references cited on the USPTO 892 form are cited as pertinent art.

Any inquiry concerning this communication from the examiner should be directed to Steven Weinstein whose telephone number is (703) 308-0650. The examiner can generally be reached on Monday-Friday from 7:00 a.m. to 3:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (703) 308-3959. The fax phone numbers

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for the organization where this application is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is (703) 308-0661.

S. Weinstein/dh  
March 4, 2003

  
**STEVE WEINSTEIN**  
**PRIMARY EXAMINER** 1761  
3/7/03